



INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P02196WO/GTG	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/EP 03/11854	International filing date (day/month/year) 24.10.2003	Priority date (day/month/year) 28.10.2002
International Patent Classification (IPC) or both national classification and IPC C12G1/02		
Applicant LINDE AKTIENGESELLSCHAFT		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
- ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).
- These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:
- I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

Date of submission of the demand 25.05.2004	Date of completion of this report 29.10.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Rinaldi, F Telephone No. +49 89 2399-7360 

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International application No. **PCT/EP 03/11854**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-6 as originally filed

Claims, Numbers

1-8 as originally filed

Drawings, Sheets

1/1 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-8
Inventive step (IS)	Yes: Claims	
	No: Claims	1-8
Industrial applicability (IA)	Yes: Claims	1-8
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V

Reasoned statement under Art.35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1 Reference is made to the following documents:

- D1: EP-A-0 542 055 (SIO SRL ;MARCHESI L E P ANTINORI S P A (IT); MILANI BRUNO (IT)) 19 May 1993 (1993-05-19)
- D2: EP-A-1 020 514 (SAUERSTOFFWERK) 19 July 2000 (2000-07-19)
- D3: FR-A-2 731 228 (CARBOXYQUE FRANCAISE) 6 September 1996 (1996-09-06)
- D4: EP-A-1 096 005 (LINDE GAS AG) 2 May 2001 (2001-05-02)
- D5: DE 742 748 C (PHIL NAT ADOLF BABEL DR) 10 December 1943 (1943-12-10)
- D6: DATABASE FSTA [Online] INTERNATIONAL FOOD INFORMATION SERVICE (IFIS), FRANFURT/MAIN, DE; LANDI L ET AL: "Oenological uses of liquid carbon dioxide." XP002269433 Database accession no. 2002-00-h2516

Novelty

- 2 The subject matter of independent process claim 1 and of independent product claim 6 and 7 does not fulfil the requirements of Art.33(2) PCT. Connection lines as far as they are not explicitly mentioned in the documents of the prior art are considered to be implicitly disclosed.
- 2.1 D1 discloses an apparatus for processing grapes, especially transportation of the grapes, maceration and pressing with liquid cryogenic fluid carbon dioxide (claims; col.3 l.25-36).
- 2.2 D2 discloses an apparatus for processing grapes, wherein transportation of grapes, maceration and pressing is carried out in the presence of liquid cryogenic fluid carbon dioxide (paragraph 10-12).
- 2.3 Similarly, D3 divulges an apparatus for processing and transporting grapes, wherein maceration and pressing is carried out in the presence of liquid cryogenic fluid carbon dioxide (Fig.1; p.7 l.37-p.8 l.32; p.12 l.32-p.17 l.32).
- 2.4 D4 discloses an apparatus for processing grapes, wherein transportation of grapes, maceration and pressing is carried out in the presence of liquid cryogenic fluid carbon dioxide (paragraph 13; claims).
- 2.5 D5 discloses maceration in the presence of carbon dioxide (p.2 l.67-p.3 l.20).
- 2.6 D6 discloses the use of carbon dioxide and in particular liquid or solid carbon

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dioxide in the manufacture of wine (transporting; before and during pressing and maceration). As especially advantageous is described the use of carbon dioxide as a cooling agent (p.480 col.3 §1-p.482, col.3 §2).

Inventive step

- 3 The subject-matter of the present application does not involve an inventive step. The features of depending claims appear to be trivial to the one skilled in the art.

Clarity

- 4 Although claims 6 and 7 have been drafted as separate independent claims, they appear to relate effectively to the same subject-matter and to differ from each other only with regard to the definition of the subject-matter for which protection is sought. The aforementioned claims therefore lack conciseness and as such do not meet the requirements of Article 6 PCT.